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C O N F I D E N T I A L SECTION 01 OF 03 TBILISI 001587

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SY, TU, GG

SUBJECT: GEORGIAN COAST GUARD CRACKS DOWN ON ABKHAZIA

SHIPMENTS

Classified By: Ambassador John F. Tefft for Reasons 1.4 (b) and (d).

1. (C) Summary and comment. On August 15 and 18 the Georgian Coast Guard detained two vessels for violations of the Law on Occupied Territories and other infractions, including for traveling in restricted Black Sea waters off the coast of Abkhazia. Although both vessels were stopped more than 24 nautical miles beyond Georgia's coast, the Coast Guard maintains both their suspicions of previous criminal activity and the principle of hot pursuit gave them the authority to take action. The MFA also asserts the detentions took place within what Georgia considers its broader maritime space; FM Vashadze assured the Ambassador that there was no Georgian intention to take more provocative actions such as stopping Russian ships. Abkhaz de facto "president" Bagapsh reacted strongly, issuing an open letter to the UN, EU and French President Sarkozy accusing Georgia of destabilizing the situation, demanding international condemnation of Georgia's action, and threatening vague consequences otherwise. EU officials, including Special Representative Morel, took initial interest in the story, but the lack of any public response by Russia seems to have reduced concerns. Although the Abkhaz could still carry through on Bagapsh's threats, including at Geneva, it seems unlikely at this point. End summary and comment.

#### THE GEOGRAPHY

2. (SBU) As Georgian Coast Guard sources told EmbOff, the Georgian government divides the waters off the Georgia into three zones: territorial waters, which extend 12 nautical miles from the coast; the contiguous zone, which extends another 12 nautical miles beyond the territorial waters; and an exclusive economic zone, which extends from the contiguous zone in a rough triangle out into the Black Sea. The economic zone roughly encompasses the area defined by one imaginary line extending from the Georgia/Russia border and another such line extending from the Turkey/Georgia border. The Georgian government calls this area the "maritime space of Georgia." In terms of maritime jurisdiction, Georgia does not distinguish the area off the coast of Abkhazia from the area off the coast of the rest of Georgia. It does consider the Port of Sukhumi closed, however, and the Law on Occupied Territories, among other pieces of Georgian law and regulation, declares movements in and out of Sukhumi that have not been properly registered with the Georgian government to be unlawful.

#### THE INCIDENTS

3. (C) Information on the following incidents was provided by the Georgian Ministry of Foreign Affairs (MFA) and Coast Guard sources (provided in part to EUR/CARC electronically).

On August 18, the Georgian Coast Guard seized the Cambodia-flagged "Afro Star," en route from Sukhumi to Turkey, carrying 1,255 tons of scrap metal. The crew consisted of seven Syrian citizens. Coast Guard sources told post they tracked the vessel by radar from Sukhumi; during the time it was in Georgian territorial waters off Abkhazia, its Automatic Identification System (AIS) was turned off, in violation of international regulations. Once it passed beyond the contiguous zone, it turned its AIS system back on. Qbeyond the contiguous zone, it turned its AIS system back on.

Somewhere beyond that point, but within the exclusive economic zone, the Coast Guard, which had evidence of previous criminal activity on the part of the Afro Star, stopped the vessel on the basis of that evidence. Upon searching the boat, it found documentary evidence that it had entered the Port of Sukhumi; the Coast Guard then took the vessel into custody at the Port of Poti on that basis. The Coast Guard noted to post that it had tracked the vessel by radar from Sukhumi, so it also had the right to stop the vessel on the basis of hot pursuit. Authorities have opened an investigation into the ship's possible violation of Article 322, Part II, sub-paragraph A of the Criminal Code of Georgia, which concerns the rules for entering the occupied territories of Georgia.

14. (C) On August 15, the Georgian Coast Guard stopped the Panama-flagged "Buket," en route from Izmit, Turkey to Sukhumi, carrying 2,088 tons of gasoline and 700 tons of diesel fuel. The crew consisted of 13 Turkish and four Azerbaijani citizens. Coast Guard sources told post they had evidence of previous criminal activity on the part of the Buket and therefore stopped it on that basis. In searching

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the vessel, they found documentary evidence of the vessel's intention to sail to Sukhumi, and the Coast Guard took the Buket into custody at the Port of Poti on that basis. The sources told post that part of the evidence of previous criminal activity was a pattern of turning off the vessel's AIS while within Georgia's contiguous zone and territorial waters off Sukhumi, similar to that shone by the Afro Star. Authorities have opened an investigation of the same provision of Georgia law as for the Afro Star.

#### THE REACTION

15. (SBU) After the August 18 seizure, Abkhaz de facto "president" Bagapsh reacted swiftly, releasing an open letter dated the same day. Addressed to the Chairman of the UN Security Council, John Sawers, the EU High Representative for the Common Foreign and Security Policy, Javier Solana, and the President of the French Republic, Nicolas Sarkozy, the letter denounces the August 17 seizure of a tanker sailing under the Turkish flag, by which he apparently means the (Panama-flagged) Buket, which had Turkish crew members. It calls the Georgian act "piracy" and intentional destabilization and calls on the international community to assess the incident adequately -- i.e., to declare how destabilizing it is. Absent such an assessment, the letter hints that the Abkhaz de facto authorities will reevaluate their participation in the Geneva talks and the Incident Prevention and Response Mechanism (IPRM). It also states that, unless the international community helps Abkhazia recover the vessels and their cargoes, the de facto authorities reserve "the right to undertake proportional measures on protecting the cargoes going to Abkhazia, and lays the blame for possible consequences on the Georgian side."

16. (C) Shortly after Bagapsh's letter appeared, Head of the EU Monitoring Mission (EUMM) Hansjoerg Haber noted that the de facto authorities had not appealed to the Russian Federation for assistance in this matter, and that Russia had not reacted in any official capacity. To Haber, this suggested that Bagapsh's vague threat of retaliation was an empty one. An EU official in Tbilisi said on August 24 that

fairly senior EU officials, including Special Representative Pierre Morel, initially expressed concerns about the situation, but the lack of any further developments since the letter appeared served to reduce anxieties. The fact that such seizures have happened before, without any significant consequences, was also reassuring. Morel, who is a French diplomat, was apparently especially concerned because President Sarkozy was one of the addressees. At this point, the official said that the EU is unlikely to respond to the letter.

#### THE JUSTIFICATION

17. (SBU) In a non-paper (provided to EUR/CARC electronically), the Georgian MFA outlined the government's legal argument in support of its actions. Citing Article 2 of the UN Convention on the Law of the Sea, the paper notes the principle of a state having sovereignty over adjacent waters. Citing Article 3 of the Georgian constitution and Article 15 of the Law on Maritime Space, it explains the government's definition of the maritime territory under Georgian jurisdiction. Citing the Georgian Law on State Borders, it notes the general principle that unauthorized travel into Georgian waters is a violation. Citing Georgian Presidential Decrees 140 (1996) and 313 (2004) and Article 2 of the Law on Occupied Territories, it indicates that the waters off Abkhazia in particular are closed to all navigation. Finally, citing Article 111 of the UN Convention, it takes note of the principle of "hot pursuit." When the Ambassador asked FM Vashadze about the incidents, the Foreign Minister noted that these actions were not new and suggested that the Georgians would not take any provocative acts such as stopping Russian vessels attempting to enter the port of Sukhumi.

COMMENT: MUCH ADO ABOUT NOT MUCH?

18. (C) These incidents are not the first such cases of Georgia seizing vessels bound to or from Abkhazia. The Coast Guard, for example, provided a list of nine other such incidents from 2007 to the present. What seems to be different in this case, and therefore to have gotten the

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attention of some, is the strongly worded reaction of de facto "president" Bagapsh. Any follow-through from Bagapsh on his threats, either on the Black Sea or the Geneva talks/IPRM context, would of course be significant. Judging from the relative lack of reaction from the Russian side, however -- the one country in the region that would presumably agree with Bagapsh's assessment of the incidents as violations of Abkhazia's "sovereignty" -- it seems likely that his bluster was meant more for domestic political consumption than anything else, as Abkhazia prepares for its "presidential" elections in December.

TEFFT